

HOUSE BILL No. 1282

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-5; IC 36-9.

Synopsis: Sewer liens for tenant occupied property. Provides that for purposes of the statutes governing municipal sewage works and storm water works, a lien does not attach for user fees assessed against property occupied by someone other than the owner if either of the following applies: (1) The property owner or the tenant gives notice to the entity assessing the fees that the tenant is responsible for paying the fees and requests that the account or other customer or billing records maintained by the assessing entity for the property be in the name of the tenant. (2) The account or other customer or billing records maintained by the assessing entity for the property otherwise indicate that: (A) the property is occupied by someone other than the owner; and (B) the person occupying the property is responsible for paying the user fees for the property. Requires the appropriate entity to release: (1) any lien filed with the county recorder for user fees assessed against property occupied by someone other than the owner; and (2) delinquent user fees incurred by the tenant responsible for paying the fees; upon receipt of a verified demand in writing from the property owner. Makes conforming amendments to provisions setting forth the manner in which municipal storm water liens and sewer liens attach and are enforced. Amends provisions requiring notice of fee delinquencies to the property owner to specify: (1) the address to which the notice must be sent; and (2) the assessing entity's obligation to provide the notice.

Effective: July 1, 2014.

Culver

January 14, 2014, read first time and referred to Committee on Local Government.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1282

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1.5-5-29, AS ADDED BY P.L.131-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 29. (a) Subsections (c), (d), ~~and~~ (e), **and (f)** do not
4 apply to a city that before January 1, 2005, adopted an ordinance
5 establishing procedures for the collection of unpaid user fees under this
6 chapter through the enforcement of a lien.
7 (b) Fees assessed against real property under this chapter constitute
8 a lien against the property assessed. The lien is superior to all other
9 liens except tax liens. Except as provided in subsections (c) and (d), the
10 lien attaches when notice of the lien is filed in the county recorder's
11 office under section 30 of this chapter.
12 (c) A fee is not enforceable as a lien against a subsequent owner of
13 property unless the lien for the fee was recorded with the county
14 recorder before the conveyance to the subsequent owner. If property is
15 conveyed before a lien is filed, the department shall notify the person
16 who owned the property at the time the fee became payable. The notice



1 must inform the person that payment, including penalty fees for
 2 delinquencies, is due not more than fifteen (15) days after the date of
 3 the notice. If payment is not received within one hundred eighty (180)
 4 days after the date of the notice, the amount due may be expensed as a
 5 bad debt loss.

6 (d) A lien attaches against real property occupied by someone other
 7 than the owner only if the department notifies the owner ~~within not~~
 8 **later than** twenty (20) days after the time the user fees ~~became become~~
 9 sixty (60) days delinquent. However, the department must give notice
 10 **of the delinquency** to the owner only if the owner has given the
 11 department written notice of the address to which to send notice. **A lien**
 12 **does not attach for user fees assessed against property occupied by**
 13 **someone other than the owner if either of the following applies:**

14 (1) The:

15 (A) property owner; or

16 (B) tenant or person occupying the property;

17 gives notice to the department that the person described in
 18 clause (B) is responsible for paying the user fees assessed by
 19 the department with respect to the property and requests that
 20 the account or other customer or billing records maintained
 21 by the department for the property be in the name of the
 22 person described in clause (B).

23 (2) The account or other customer or billing records
 24 maintained by the department for the property otherwise
 25 indicate that:

26 (A) the property is occupied by someone other than the
 27 owner; and

28 (B) the person occupying the property is responsible for
 29 paying the user fees assessed by the department with
 30 respect to the property.

31 (e) The department shall release:

32 (1) liens filed with the county recorder after the recorded date of
 33 conveyance of the property; and

34 (2) delinquent fees incurred by the seller;

35 upon receipt of a verified demand in writing from the purchaser. The
 36 demand must state that the delinquent fees were not incurred by the
 37 purchaser as a user, lessee, or previous owner and that the purchaser
 38 has not been paid by the seller for the delinquent fees.

39 (f) **Regardless of whether the department has notice under**
 40 **subsection (d)(1) or (d)(2) that property is occupied by someone**
 41 **other than the owner, the department shall release:**

42 (1) any lien filed with the county recorder for user fees



1 assessed against property occupied by someone other than the
2 owner; and

3 (2) delinquent user fees incurred by the tenant or person who
4 occupies the property and is responsible for paying the user
5 fees assessed by the department with respect to the property;
6 upon receipt of a verified demand in writing from the owner of the
7 property. The demand must state that the delinquent fees were not
8 incurred by the owner as a user of the storm water system and that
9 the owner has not been paid by the tenant or person occupying the
10 property for the delinquent user fees.

11 SECTION 2. IC 8-1.5-5-30, AS ADDED BY P.L.131-2005,
12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2014]: Sec. 30. (a) **With respect to property for which the**
14 **account or other customer or billing records maintained by the**
15 **department indicate that:**

16 (1) the property is occupied by someone other than the owner;
17 and

18 (2) the person occupying the property is responsible for
19 paying the user fees assessed by the department with respect
20 to the property;

21 as described in section 29(d) of this chapter, subsections (c)
22 through (e) and subsections (h) through (l) do not apply to unpaid
23 user fees and penalties assessed against the property under this
24 chapter.

25 (b) The board may defer enforcing the collection of unpaid fees and
26 penalties assessed under this chapter until the unpaid fees and penalties
27 have been due and unpaid for at least ninety (90) days. **However, in**
28 **the case of property that is occupied by someone other than the**
29 **owner and for which the owner has given the department written**
30 **notice of an address to which to send notice of delinquent fees with**
31 **respect to the property, this subsection does not relieve the**
32 **department of its duty under section 29(d) of this chapter to notify**
33 **the owner not later than twenty (20) days after the time user fees**
34 **become sixty (60) days delinquent.**

35 ~~(b)~~ (c) Except as provided in subsection ~~(k)~~; (n), the board shall
36 enforce payment of fees imposed under this chapter. As often as the
37 board determines necessary in a calendar year, the board shall prepare
38 either of the following:

39 (1) A list of the delinquent fees and penalties that are enforceable
40 under this section. The list must include the following:

41 (A) The name of the owner of each lot or parcel of real
42 property on which fees are delinquent.



- 1 (B) A description of the premises, as shown by the records of
 2 the county auditor.
 3 (C) The amount of the delinquent fees, together with the
 4 penalty.
 5 (2) An individual instrument for each lot or parcel of real property
 6 on which the fees are delinquent.
 7 ~~(c)~~ (d) An officer of the board shall record a copy of each list or
 8 each individual instrument with the county recorder who shall charge
 9 a fee for recording the list or each individual instrument in accordance
 10 with the fee schedule established in IC 36-2-7-10. The officer shall
 11 mail by certified mail, or by another delivery service providing proof
 12 of delivery, to each property owner on the list or on an individual
 13 instrument a notice stating that a lien against the owner's property has
 14 been recorded. A service charge of five dollars (\$5), which is in
 15 addition to the recording fee charged under this subsection and under
 16 subsection ~~(c)~~; (f), shall be added to each delinquent fee that is
 17 recorded.
 18 ~~(d)~~ (e) Using the lists and instruments prepared under subsection ~~(b)~~
 19 (c) and recorded under subsection ~~(c)~~; (d), the board shall, not later
 20 than ten (10) days after the list or each individual instrument is
 21 recorded under subsection ~~(c)~~; (d), certify to the county auditor a list of
 22 the **unpaid** liens ~~that remain unpaid~~ for collection **in not later than the**
 23 **due date of the next May installment of property taxes, as specified**
 24 **in subsection (h).** The county and its officers and employees are not
 25 liable for any material error in the information on this list.
 26 ~~(c)~~ (f) The board shall release any recorded lien when the delinquent
 27 fees, penalties, service charges, and recording fees have been fully
 28 paid. The county recorder shall charge a fee for releasing the lien in
 29 accordance with IC 36-2-7-10.
 30 (g) **The department shall release any recorded lien when a**
 31 **verified demand has been filed with the county auditor under**
 32 **section 29(e) or 29(f) of this chapter. The county recorder may not**
 33 **charge a fee for releasing a lien under this subsection.**
 34 ~~(f)~~ (h) Upon **receipt certification** of the list under subsection ~~(c)~~;
 35 (e), the county auditor of each county shall add a fifteen dollar (\$15)
 36 certification fee for each lot or parcel of real property on which fees are
 37 delinquent. The fee is in addition to all other fees and charges. The
 38 county auditor shall immediately enter on the tax duplicate for the
 39 district the delinquent fees, penalties, service charges, recording fees,
 40 and certification fees, which are due not later than the due date of the
 41 next May installment of property taxes. The county treasurer shall
 42 include any unpaid charges for the delinquent fee, penalty, service



charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

~~(g)~~ **(i)** After certification of liens under subsection ~~(d)~~; **(e)**, the board may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor.

~~(h)~~ **(j)** If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

~~(i)~~ **(k)** At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the district. The county treasurer shall retain the service charges and certification fees that have been collected and shall deposit them in the county general fund.

~~(j)~~ **(l)** Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 29(e) of this chapter, files a verified demand with the county auditor.

(m) User fees, penalties, and service charges assessed against property occupied by someone other than the owner, regardless of whether the department has notice under section 29(d)(1) or 29(d)(2) of this chapter that the property is occupied by someone other than the owner, shall be removed from the tax roll for an owner who, in the manner prescribed by section 29(f) of this chapter, files a verified demand with the county auditor.

~~(k)~~ **(n)** A board may write off a fee or penalty under subsection ~~(a)~~ **(b)** that is:

(1) less than forty dollars (\$40); or

(2) removed from the tax roll under subsection (l) or (m).

SECTION 3. IC 8-1.5-5-31, AS ADDED BY P.L.131-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 31. (a) A district may foreclose a lien, **other than a lien required to be released under section 30(f) or 30(g) of this chapter**, established by this chapter in order to collect fees and penalties. The district shall recover the amount of the fees and penalties, and a reasonable attorney's fee. The court shall order the sale to be made without relief from valuation or appraisement laws.

(b) Except as otherwise provided by this chapter, actions under this



chapter are subject to the general statutes regarding municipal public improvement assessments.

SECTION 4. IC 36-9-23-32, AS AMENDED BY P.L.113-2010, SECTION 153, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 32. (a) Fees assessed against real property under this chapter or under any statute repealed by IC 19-2-5-30 constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (b) and (c), the lien attaches when notice of the lien is filed in the county recorder's office under section 33 of this chapter.

(b) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the municipality shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not more than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

(c) A lien attaches against real property occupied by someone other than the owner only if the utility ~~notified~~ **notifies** the owner ~~within not later than~~ twenty (20) days after the time the utility fees ~~became~~ **become** sixty (60) days delinquent. However, the utility is required to give notice **of the delinquency** to the owner **only** if the owner has given the general office of the utility written notice of the address to which the owner's notice is to be sent. A notice sent to the owner under this subsection must be sent by certified mail, return receipt requested, or an equivalent service permitted under IC 1-1-7-1 to ~~(1) the owner of record of real property with a single owner; or (2) at least one (1) of the owners of real property with multiple owners; at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice.~~ **the address specified by the owner in the owner's written notice to the utility.** The cost of sending notice under this subsection is an administrative cost that may be billed to the owner. **A lien does not attach for user fees assessed against property occupied by someone other than the owner if either of the following applies:**

(1) The:

(A) property owner; or

(B) tenant or person occupying the property;

gives notice to the utility that the person described in clause



(B) is responsible for paying the user fees assessed by the utility with respect to the property and requests that the account or other customer or billing records maintained by the utility for the property be in the name of the person described in clause (B).

(2) The account or other customer or billing records maintained by the utility for the property otherwise indicate that:

(A) the property is occupied by someone other than the owner; and

(B) the person occupying the property is responsible for paying the user fees assessed by the utility with respect to the property.

(d) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

(e) Regardless of whether the utility has notice under subsection (c)(1) or (c)(2) that property is occupied by someone other than the owner, the municipality shall release:

(1) any lien filed with the county recorder for user fees assessed against property occupied by someone other than the owner; and

(2) delinquent user fees incurred by the tenant or person who occupies the property and is responsible for paying the user fees assessed by the utility with respect to the property;

upon receipt of a verified demand in writing from the owner of the property. The demand must state that the delinquent fees were not incurred by the owner as a user of the sewage works and that the owner has not been paid by the tenant or person occupying the property for the delinquent user fees.

SECTION 5. IC 36-9-23-33, AS AMENDED BY P.L.39-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 33. (a) With respect to property for which the account or other customer or billing records maintained by the utility indicate that:

(1) the property is occupied by someone other than the owner; and



(2) the person occupying the property is responsible for paying the user fees assessed by the utility with respect to the property;

as described in section 32(c) of this chapter, subsections (c) through (f) and subsections (i) through (l) do not apply to unpaid user fees and penalties assessed against the property under this chapter.

(b) An officer described in subsection ~~(b)~~ (c) may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days. However, in the case of property that is occupied by someone other than the owner and for which the owner has given the utility written notice of an address to which to send notice of delinquent fees with respect to the property, this subsection does not relieve the utility of its duty under section 32(c) of this chapter to notify the owner not later than twenty (20) days after the time user fees become sixty (60) days delinquent.

~~(b)~~ (c) Except as provided in subsection ~~(b)~~ (c), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the following:

(A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

~~(c)~~ (d) The officer shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection ~~(b)~~ (g), shall be added to each delinquent fee that is recorded.

~~(d)~~ (e) This subsection applies only to a county containing a



consolidated city. Using the lists and instruments prepared under subsection ~~(b)~~ (c) and recorded under subsection ~~(e)~~; (d), the officer shall certify to the county auditor, **according to a schedule agreed upon by the county treasurer and the officer**, a list of the **unpaid** liens ~~that remain unpaid~~ according to a schedule agreed upon by the ~~county treasurer and the officer~~ for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

~~(e)~~ (f) **This subsection applies to a county not described in subsection (e).** Using the lists and instruments prepared under subsection ~~(b)~~ (c) and recorded under subsection ~~(e)~~; (d), the officer shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection ~~(e)~~; (d), certify to the county auditor a list of the **unpaid** liens ~~that remain unpaid~~ for collection ~~in~~ **with** the next May **installment of property taxes**. The county and its officers and employees are not liable for any material error in the information on this list.

~~(f)~~ (g) The officer shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(h) **The municipality shall release any recorded lien when a verified demand has been filed with the county auditor under section 32(d) or 32(e) of this chapter. The county recorder may not charge a fee for releasing a lien under this subsection.**

~~(g)~~ (i) **On receipt certification** of the list under subsection (e) or (f), the county auditor of each county shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next **cycle's** installment of property taxes. The county treasurer shall then include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

~~(h)~~ (j) After certification of liens under subsection ~~(e)~~ (f), the officer may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor. This subsection does not apply to a county containing a consolidated city.



1 ~~(j)~~ **(k)** If a delinquent fee, penalty, service charge, recording fee, and
 2 certification fee are not paid, they shall be collected by the county
 3 treasurer in the same way that delinquent property taxes are collected.

4 ~~(j)~~ **(l)** At the time of each semiannual tax settlement, the county
 5 treasurer shall certify to the county auditor all fees, charges, and
 6 penalties that have been collected. The county auditor shall deduct the
 7 service charges and certification fees collected by the county treasurer
 8 and pay over to the officer the remaining fees and penalties due the
 9 municipality. The county treasurer shall retain the service charges and
 10 certification fees that have been collected, and shall deposit them in the
 11 county general fund.

12 ~~(k)~~ **(m)** Fees, penalties, and service charges that were not recorded
 13 before a recorded conveyance shall be removed from the tax roll for a
 14 purchaser who, in the manner prescribed by section 32(d) of this
 15 chapter, files a verified demand with the county auditor.

16 **(n) User fees, penalties, and service charges assessed against**
 17 **property occupied by someone other than the owner, regardless of**
 18 **whether the utility has notice under section 32(c)(1) or 32(c)(2) of**
 19 **this chapter that the property is occupied by someone other than**
 20 **the owner, shall be removed from the tax roll for an owner who, in**
 21 **the manner prescribed by section 32(e) of this chapter, files a**
 22 **verified demand with the county auditor.**

23 ~~(j)~~ **(o)** A board may write off a fee or penalty under subsection ~~(a)~~
 24 **(b)** that is:

25 **(1)** for less than forty dollars (\$40); or

26 **(2) removed from the tax roll under subsection (m) or (n).**

27 SECTION 6. IC 36-9-23-34 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 34. (a) A municipality
 29 or board may foreclose a lien, **other than a lien required to be**
 30 **released under section 33(g) or 33(h) of this chapter**, established by
 31 this chapter in order to collect fees and penalties. The municipality or
 32 board shall recover the amount of the fees and penalties, and a
 33 reasonable attorney's fee. The court shall order the sale to be made
 34 without relief from valuation or appraisal laws.

35 (b) Except as otherwise provided by this chapter, actions under this
 36 chapter are subject to the general statutes regarding municipal public
 37 improvement assessments.

38 SECTION 7. IC 36-9-25-11, AS AMENDED BY P.L.168-2009,
 39 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2014]: Sec. 11. (a) In connection with its duties, the board
 41 may fix fees for the treatment and disposal of sewage and other waste
 42 discharged into the sewerage system, collect the fees, and establish and



1 enforce rules governing the furnishing of and payment for sewage
2 treatment and disposal service. The fees must be just and equitable and
3 shall be paid by any user of the sewage works and the owner of every
4 lot, parcel of real property, or building that is connected with and uses
5 the sewage works of the district by or through any part of the sewerage
6 system. This section applies to owners of property that is partially or
7 wholly exempt from taxation, as well as owners of property subject to
8 full taxation.

9 (b) The board may change fees from time to time. The fees, together
10 with the taxes levied under this chapter, must at all times be sufficient
11 to produce revenues sufficient to pay operation, maintenance, and
12 administrative expenses, to pay the principal and interest on bonds as
13 they become due and payable, and to provide money for the revolving
14 fund authorized by this chapter.

15 (c) Fees may not be established until a public hearing has been held
16 at which all the users of the sewage works and owners of property
17 served or to be served by the works, including interested parties, have
18 had an opportunity to be heard concerning the proposed fees. After
19 introduction of the resolution fixing fees, and before they are finally
20 adopted, notice of the hearing setting forth the proposed schedule of
21 fees shall be given by publication in accordance with IC 5-3-1. After
22 the hearing the resolution establishing fees, either as originally
23 introduced or as amended, shall be passed and put into effect.
24 However, fees related to property that is subject to full taxation do not
25 take effect until they have been approved by ordinance of the municipal
26 legislative body or, in the case of a district described in section 3(b)(2)
27 of this chapter, under section 11.3 of this chapter.

28 (d) A copy of the schedule of the fees shall be kept on file in the
29 office of the board and must be open to inspection by all interested
30 parties. The fees established for any class of users or property served
31 shall be extended to cover any additional premises thereafter served
32 that fall within the same class, without the necessity of hearing or
33 notice.

34 (e) A change of fees may be made in the same manner as fees were
35 originally established. However, if a change is made substantially pro
36 rata for all classes of service, hearing or notice is not required, but
37 approval of the change by ordinance of the municipal legislative body
38 is required, and, in the case of a district described in section 3(b)(2) of
39 this chapter, approval under section 11.3 of this chapter is required.

40 (f) If a fee established is not paid within thirty (30) days after it is
41 due, the amount, together with a penalty of ten percent (10%) and a
42 reasonable attorney's fee, may be recovered by the board from the



delinquent user or owner of the property served in a civil action in the name of the municipality.

(g) **Except as provided in subsection (h)**, fees assessed against real property under this section also constitute a lien against the property assessed. **Except as provided in subsection (i)**, the lien attaches at the time of the filing of the notice of lien in the county recorder's office. The lien is superior to all other liens except tax liens, and shall be enforced and foreclosed in the same manner as is provided for liens under IC 36-9-23-33 and IC 36-9-23-34.

(h) A fee assessed against real property under this section constitutes a lien against the property assessed only when the fee is delinquent for no more than three (3) years from the day after the fee is due.

(i) **A lien attaches for user fees assessed against property occupied by someone other than the owner only if the board provides the notice required under section 11.2 of this chapter to the owner at the latest address of the owner as shown on the property tax records of the county in which the property is located. However, a lien does not attach for user fees assessed against property occupied by someone other than the owner if either of the following applies:**

(1) **The:**

(A) **property owner; or**

(B) **tenant or person occupying the property;**

gives notice to the board that the person described in clause (B) is responsible for paying the user fees assessed by the board with respect to the property and requests that the account or other customer or billing records maintained by the board for the property be in the name of the person described in clause (B).

(2) **The account or other customer or billing records maintained by the board for the property otherwise indicate that:**

(A) **the property is occupied by someone other than the owner; and**

(B) **the person occupying the property is responsible for paying the user fees assessed by the board with respect to the property.**

(j) **Regardless of whether the board has notice under subsection (i)(1) or (i)(2) that property is occupied by someone other than the owner, the board shall release:**

(1) **any lien filed with the county recorder for user fees**



1 assessed against property occupied by someone other than the
2 owner; and

3 **(2) delinquent user fees incurred by the tenant or person who**
4 **occupies the property and is responsible for paying the user**
5 **fees assessed by the board with respect to the property;**

6 upon receipt of a verified demand in writing from the owner of the
7 property. The demand must state that the delinquent fees were not
8 incurred by the owner as a user of the sewage works and that the
9 owner has not been paid by the tenant or person occupying the
10 property for the delinquent user fees.

11 ~~(j)~~ **(k)** In addition to the:

12 **(1)** penalties under subsections (f) and (g); ~~and or~~

13 **(2) alternative penalty available under** section 11.5 of this
14 chapter;

15 a delinquent user may not discharge water into the public sewers and
16 may have the property disconnected from the public sewers.

17 ~~(j)~~ **(l)** The authority to establish a user fee under this section
18 includes fees to recover the cost of construction of sewage works from
19 industrial users as defined and required under federal statute or rule.
20 Any industrial users' cost recovery fees may become a lien upon the
21 real property and shall be collected in the manner provided by law. In
22 addition, the imposition of the fees, the use of the amounts collected,
23 and the criteria for the fees must be consistent with the regulations of
24 the federal Environmental Protection Agency.

25 ~~(k)~~ **(m)** The authority to establish a user fee under this section
26 includes fees to recover the costs associated with providing financial
27 assistance under section 42 of this chapter. A fee that is:

28 (1) established under this subsection or any other law; and

29 (2) used to provide financial assistance under section 42 of this
30 chapter;

31 is considered just and equitable if the project for which the financial
32 assistance is provided otherwise complies with the requirements of this
33 chapter.

